

**C. REMARKS**

In response to the Office Action dated October 3, 2003, Applicants respectfully request reconsideration based on the above claim amendments and the following remarks. Upon entry of the Amendment, claims 1-22 will be pending in this application with claims 1, 14, 19, 20 and 22 being independent. Applicants respectfully submit that the claims as presented are in condition for allowance.

**1. Eastman et al./Tilford et al./Holliday et al./Shintani Rejection**

Claims 1-22 stand rejected under 35 U.S.C. §102(a) as being unpatentable over U.S. Patent No. 6,216,266 to Eastman et al. ("Eastman"), U.S. Patent No. 5,915,020 to Tilford et al. ("Tilford"), or International Application WO 00/24083 to Holliday ("Holliday") in view of U.S. Patent No. 6,299,480 to Shintani ("Shitani"). Applicants traverse this rejection.

In the present Office Action, the Examiner admits that in Eastman, Tilford, and Holliday "BER and C/N ratio are not calculated and used in a determination of overall quality."<sup>1</sup> The Examiner alleges, however, that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify any of Eastman et al, Tilford et al and Holliday et al in view of the teachings of Shintani et al by determining a plurality of quality measurements, including BER and C/N ratio, so as to

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<sup>1</sup> Office Acton at p. 2.

provide an overall quality on the bases of a weighted combination of the measurements and thereby provide better alignment of the antenna to the target source."<sup>2</sup>

At most, Shintani teaches the following:

The microprocessor 120 may then calculate or determine the acceptable or optimum orientation of the antenna 122 for each channel based on the information pertaining to the BER, C/N, equalizer tap coefficients, AGC level, Reed-Solomon error correction code and so forth obtained in step S40. In a preferred embodiment, BER information is utilized to by the microprocessor 120 to determine the optimum orientation of the antenna 122. In this situation, the lowest BER may provide an indication of the optimum antenna orientation. If, however, BER information is unavailable (such as which may occur if the bit error rate is beyond the capability of the system), the microprocessor 120 may determine the optimum orientation of the antenna 122 by use of information pertaining to C/N, AGC level, equalizer tap coefficients, Reed-Solomon error correction code and so forth obtained in step S40. Alternatively, a weighed combination of any two of such items may be utilized by the microprocessor 120 to determine the optimum antenna orientation.<sup>3</sup>

Applicants submit that Eastman, Tilford, Holliday, and Shintani do not teach or suggest displaying the BER value and C/N value as recited by independent claims 1, 14, 19, 20, and 22. As such, even if any of Eastman, Tilford, and Holliday could be combined with Shintani, which Applicants do no admit, such combinations clearly would fail to teach or suggest all the features of independent claims 1, 14, 19, 20 and 22.

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<sup>2</sup> Id.

<sup>3</sup> Shintani at col. 5, ll.30-48.

Applicants remind the Examiner that in order to establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.<sup>4</sup> In addition, there must be a reasonable expectation of success.<sup>5</sup> Moreover, the prior art must teach or suggest all of the claim limitations.<sup>6</sup> Such teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.<sup>7</sup>

In view of the above, Applicants submit that the teachings of Eastman, Tilford, and Holliday, and Shintani are insufficient to establish a *prima facie* case of obviousness with respect to claims 1-22 and that claims 1-22 are allowable for at least this reason.

Accordingly, Applicants request reconsideration and withdrawal of this rejection.

## **2. Fogelstrom/Fukazawa et al. Rejection**

Claims 1-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over EP1014481 to Fogelstrom ("Fogelstrom") in view of U.S. Patent No. 5,376,941 to Fukazawa et al. ("Fukazawa"). Applicants traverse this rejection.

Applicants submit that the Fogelstrom and Fukazawa do not teach or suggest displaying the BER value and C/N value as recited by independent claims 1, 14, 19, 20,

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<sup>4</sup> See MPEP § 2143 citing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

and 22. As such, even if any of Eastman, Tilford, and Holliday could be combined with Shintani, which Applicants do not admit, such combinations clearly would fail to teach or suggest all the features of independent claims 1, 14, 19, 20 and 22.

In view of the above, Applicants submit that the teachings of Fogelstrom and Fukazawa are insufficient to establish a *prima facie* case of obviousness with respect to claims 1-22 and that claims 1-22 are allowable for at least this reason.

Accordingly, Applicants request reconsideration and withdrawal of this rejection.

**D. CONCLUSION**

Applicants submit this application is in condition for allowance and request favorable action in the form of a Notice of Allowance.

Respectfully submitted,

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